

REMARKS**Summary of the Office Action**

Claims 1-7 and 11-14 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Ono et al. (U.S. Patent No. 6,643,231) (hereinafter "Ono") in view of Shigemori (U.S. Patent No. 6,693,862) (hereinafter "Shigemori").

Claims 8-10 stand objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form.

Summary of the Response to the Office Action

Applicant has amended claims 1-4 and 8-9 and added new claims 15-18 to differently describe embodiments of the disclosure of the instant application's specification. Applicant has also cancelled claims 5-7 and 13-14 without prejudice or disclaimer. Accordingly, claims 1-4, 8-12 and 15-18 are currently pending for consideration.

Rejection under 35 U.S.C. § 103(a)

Claims 1-7 and 11-14 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Ono in view of Shigemori. Applicant has cancelled claims 5-7 and 13-14 without prejudice or disclaimer, rendering the rejection of these claims moot. In addition, Applicant has amended claims 1-4 to differently describe embodiments of the disclosure of the instant application's specification. To the extent that these rejections might be deemed to apply to the claims as newly-amended, they are respectfully traversed for at least the following reasons.

Newly-amended independent claim 1 now recites a recording apparatus combination that includes “a detector for detecting a deviation between an end position address of recorded data already recorded on said optical recording medium and a frame address next to the end position address (emphasis added).” Also, the combination of newly-amended independent claim 1 includes “a controller for adjusting a recording start position of the data signal based on the deviation while recording the data signal (emphasis added).”

In particular, Applicant respectfully submits that, as described, for example, at page 11, line 27 - page 12, line 17 and Fig. 4 of the instant application’s disclosure, the detector (CPU 27) searches for recorded data to acquire an RF address (Pe) as an end position of the recorded data. See, for example, step S11 of Fig. 4. The detector also acquires a prepit position (Pp) from the LPP address at the moment when no RF signal is present (see, for example, step S12), for example, the next recording frame of the disc. As a result, the detector calculates the difference Δ (i.e., $\Delta = |Pe - Pp|$) between the end position of the recorded data and the prepit position. See, for example, page 12, line 10-12, and step S13 of the instant application’s disclosure.

Additionally, Applicant respectfully submits that the “deviation” relates to an unrecorded portion extending from the end position of the recorded data (Pe) to the next prepit position. See, for example, page 14, lines 21-23 of the instant application’s specification. Additionally, the specification of the instant application explains, at page 12, lines 14-17, that “[t]he end position of the recorded data and the prepit position are determined from the above-mentioned RF address and LPP address, respectively. The deviation in this case is required to be finer than one frame.”

Applicant respectfully submits that the instant application's controller (CPU 27) adjusts a recording start position of the data signal based on the deviation. Specifically, the controller determines whether or not to correct the position deviation (step S16) based on the difference Δ . The controller does not execute correction of recording start position when Δ is equal to or smaller than the predetermined value ϵ ($\Delta \leq \epsilon$) (step S17). To the contrary, the controller executes correction of recording start position when $\Delta > \epsilon$ by calling a position correction and recording subroutine. See, for example, page 15; lines 1-5 and step S20 of the instant application's disclosure.

Newly-amended independent claim 3 recites a recording apparatus combination including similar features as discussed above with regard to newly-amended independent claim 1. However, the detector in newly-amended claim 3 is described as detecting the next frame address "by comparing said recording position information and the synchronization information of the recorded data." This feature is described, for example, in the third embodiment of the invention, at page 25, lines 3-11 of the instant application's specification.

Applicant respectfully submits that the applied Ono reference, on the contrary, merely discloses a "sliding operation" of the optical pickup in which the optical pickup is moved from the present position to the target position, without reading the position information recorded in the moving disc. See col. 7, lines 18-25, step 507-508, and Fig. 5 of Ono. In addition, the applied secondary reference to Shigemori does not cure the deficiencies of Ono in at least these regards. Thus, Applicant respectfully submits that the specific arrangements of the embodiments recited in each of independent claims 1 and 3 are neither taught nor suggested in the cited references, whether taken separately, or in combination with each other.

Accordingly, Applicants respectfully assert that the rejections under 35 U.S.C. § 103(a) should be withdrawn because neither Ono nor Shigemori, whether taken singly or combined, teach or suggest each feature of independent claims 1 and 3, as amended. MPEP § 2143.03 instructs that “[t]o establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. In re Royka, 409 F.2d 981, 180 USPQ 580 (CCPA 1974).” Furthermore, Applicants respectfully assert that dependent claims 2, 4, 11, 12, 15 and 16 are allowable at least because of their dependence from independent claims 1 or 3, and the reasons set forth above.

Newly-Amended Independent Claims 8 and 9

The Examiner is thanked for the indication that claims 8-10, while objected to as being dependent upon a rejected base claim, would be allowable if rewritten in independent form.

In particular, at page 7 of the Office Action, the Examiner notes with regard to claim 8 that the “prior art of record ... does not disclose or suggest all of the limitations of claims 1 and 6, as well as the further limitation that the controller controls the difference between said address information and said recording position information to be within a predetermined range **by recording predetermined data in a recording area present between a recording end position and the position where the recording position information section is formed** (underlined emphasis added, bold text is found in Office Action).”

Applicant has amended claim 8 to be placed in independent form by incorporating features of independent claim 1. Applicant notes that the features of claim 6 have not been incorporated into newly-amended claim 8 at least because claim 8 already includes particular features that distinguish it from the prior art of record, such as the above-discussed feature that

was highlighted in bold at page 7 of the Office Action. Accordingly, Applicant respectfully submits that claim 8, as newly-amended, is now in condition for allowance.

Similarly, at page 7 of the Office Action, the Examiner notes with regard to claim 9 that the “prior art of record ... does not disclose or suggest all of the limitations of claims 1 and 6, as well as the further limitation that **an identifier for identifying a rewritable optical recording medium on which data is to be recorded, and an irregular-area detector for detecting an irregular recording area subject to the deviation, wherein the controller rewrites the data which has already recorded on the irregular recording area** (underlined emphasis added, bold text is found in Office Action).”

Applicant has amended claim 9 to be placed in independent form by incorporating features of independent claim 1. Applicant notes that the features of claim 6 have not been incorporated into newly-amended claim 9 at least because claim 9 already includes particular features that distinguish it from the prior art of record, such as the above-discussed feature that was highlighted in bold at page 7 of the Office Action. Accordingly, Applicant respectfully submits that claim 9, as newly-amended, is now in condition for allowance.

In addition, dependent claims 10 and 17-18 are in condition for allowance at least for the same reasons as their independent claims 8 or 9, and the reasons set forth above.

Accordingly, withdrawal of the objection to claims 8-10 is thus respectfully requested.

CONCLUSION

In view of the foregoing, Applicant submits that the pending claims are in condition for allowance, and respectfully request reconsideration and timely allowance of the pending claims. Should the Examiner feel that there are any issues outstanding after consideration of this

response, the Examiner is invited to contact Applicant's undersigned representative to expedite prosecution. A favorable action is awaited.

EXCEPT for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. § 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account No. 50-0573. This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. § 1.136(a)(3).

Respectfully submitted,

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By:



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